

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
ORANGEBURG DIVISION**

John Henry Bridges,

Civil Action No. 5:18-cv-2233-RMG

Plaintiff,

v.

ORDER

Cpt. Davis, *et al.*,

Defendants.

Before the Court is the Report and Recommendation (“R & R”) of the Magistrate Judge (Dkt. No. 57) recommending the Court dismiss Plaintiff’s Complaint. For the reasons set forth below, the Court adopts the R & R and the Complaint is dismissed with prejudice.

I. Background

On August 13, 2018, Plaintiff filed a Complaint under 42 U.S.C. § 1983. (Dkt. No. 1.) On April 26, 2019, Defendants filed a motion for summary judgment, and on April 29, 2019, the Magistrate Judge issued a *Roseboro* Order stating that Plaintiff had thirty-one (31) days to respond to the motion and the Court may grant the motion if Plaintiff failed to respond. (Dkt. Nos. 48, 49.) Plaintiff did not respond to the motion and on September 13, 2019, the Magistrate Judge issued an additional order stating that Plaintiff had until September 30, 2019 to advise the court of whether he seeks to proceed with his case and, if not, the action would be recommended for dismissal. (Dkt. No. 53.) Plaintiff did not respond to that Order and has otherwise not contacted the Court. On October 9, 2019, the Magistrate Judge filed a R & R recommending the Court dismiss the case for failure to prosecute. (Dkt. No. 57.) Plaintiff has not filed objections.

II. Legal Standard

The Magistrate Judge makes only a recommendation to this Court that has no presumptive weight. The responsibility to make a final determination remains with the Court. *See Mathews v.*

Weber, 423 U.S. 261, 270–71 (1976). The Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). This Court must make a *de novo* determination of those portions of the R & R to which Plaintiff specifically objects. Fed. R. Civ. P. 72(b)(2). Where Plaintiff fails to file any specific objections, “a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (internal quotation omitted). Plaintiff did not file objections, and the R & R is reviewed for clear error.

III. Discussion


Plaintiff has not responded to two Court Orders or the R & R. Plaintiff’s failure to respond, which instructed him that the case may be dismissed and gave him a deadline of September 30, 2019 to indicate whether he wanted to proceed, indicates an intent not to prosecute this case. *See* Fed. R. Civ. P. 41(b) (district courts may dismiss an action if a plaintiff fails to prosecute or to comply with an order of the court); *Ballard v. Carlson*, 882 F.2d 93, 95 (4th Cir. 1989) (dismissal appropriate when accompanied by a warning). Therefore, the Complaint is subject to dismissal.

IV. Conclusion

For the foregoing reasons, the Court **ADOPTS** the R & R of the Magistrate Judge (Dkt. No. 57) and the Complaint is **DISMISSED WITH PREJUDICE**.

AND IT IS SO ORDERED.

09 Feb 31, 2019
Charleston, South Carolina



Richard Mark Gergel
United States District Court Judge